

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Tony B. Gaskins,

Plaintiff,

Civil Action
No. 05-10858-GAO

v.

UMass Correctional Health Services, et al.,

Defendants.

**PLAINTIFF'S MOTION TO STAY PROCEEDINGS ON
DEFENDANTS MOTION TO DISMISS AND/OR MOTION
FOR SUMMARY JUDGMENT, AND TO PERMIT
DISCOVERY BY PLAINTIFF**

Now comes the plaintiff, Tony B. Gaskins, pursuant to Fed. R. Civ. P. 56(f), moves this Honorable Court to stay proceedings on defendants Motion to Dismiss and/or Motion for Summary Judgment.

1. As grounds therefore, plaintiff states that he had drafted a motion "for request of documents" to submit to defendants. Upon completion of the document, per policy of the D.O.C., plaintiff submitted the pleadings for photocopying to Glen Gaspar, Correctional Program Officer ("CPO") on 7/19/05.

2. The copies were not received timely which resulted in plaintiff filing grievances to prison staff about the missing motions. The copied motions were returned to him on July 28, 2005, the same day he received defendants motion to dismiss and/or for summary judgment.


3. The purpose for plaintiff's motion for discovery

was to request and receive certain documents to support his claims as alleged in his complaint and amended complaint.

4. Plaintiff cannot effectively present his claims or defend against defendants motion presently filed without the requested discovery. Moreover, the plaintiff contends that he had filed an amended complaint and that summary judgment at this early stage would be premature.

WHEREFORE, plaintiff request that this Honorable Court stay proceedings on defendants Motion to Dismiss and/or Summary Judgment until defendants have responded to plaintiff's first set of request for documents, and this Court has ruled on his "amended" complaint. See attached Exhibits.

Respectfully Submitted,


Tony B. Gaskins, Pro se
MCI-Cedar Junction
P.O. Box 100
South Walpole, Ma. 02071

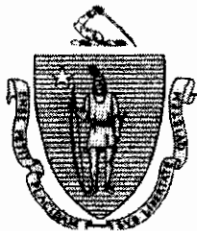
Dated: 7/8/05

CERTIFICATE OF SERVICE

I, Tony B. Gaskins, certify that I caused a true copy to be served on: Jody T. Adams, Legal Division, Department of Correction, 70 Franklin Street, Suite 600, Boston, Ma. 02110-1300, by first class mail, postage prepaid.


Tony B. Gaskins, pro se

Dated: 7/21/05



Mitt Romney
Governor

Kerry Healey
Lieutenant Governor

Edward A. Flynn
Secretary

*The Commonwealth of Massachusetts
Executive Office of Public Safety*

*Department of Correction
M.C.I. Cedar Junction at Walpole
P.O. Box 100
South Walpole, Massachusetts 02071*

Tel: (508) 660-8000 Fax: (508) 660-8009

www.mass.gov/doc



Kathleen M. Dennehy
Commissioner

James Bender
Deputy Commissioner

David Nolan
Superintendent

July 25, 2005

Tony Gaskins W-52145
MCI-Cedar Junction
DDU

Dear Mr. Gaskins:

I am in receipt of your request to staff dated July 24, 2005, concerning a request for copies of documents. You claim that you sent the request for copies a week and a half ago.

I have been advised by library staff that your request was received in the library on July 20, 2005. The copies were made the next business day and have since been returned to you by a caseworker.

Sincerely,

A handwritten signature in black ink, appearing to read "David Nolan".

David Nolan
Superintendent

C: Beverly Veglas, Librarian
Inmate's file
File

Received
7/28/05
T.G.

COMPLETED

103 CMR 478.00 Attachment C

JUL 22 2005

DEPARTMENT OF CORRECTION
LEGAL PHOTOCOPYING REQUEST FORM

JR
MCI-CJ Law Library

This form must be completely filled out if you are requesting legal photocopying. The Librarian will only copy original documents.

Date: 7/19/05

Name: Tony Garkins

Inmate Number: 652145

Institution: MCI-CJ

Housing Unit: A2 #82/DOU

Number of pages of document to be copied: 7

Number of copies: 3

Cite the legal rule or Court Order or provide reason for the number of copies requested: _____

If there is a Court deadline, you must write it here: _____ and attach proof.

Please inform the Librarian if there is anything else s/he needs to know in order to process this request: _____

Attach the document to be copied to this Legal Photocopying Request Form.

For Librarian use only:

Approved: [Signature]

Denied: _____

Reason for denial:

____ Not original legal document

____ Failure to cite legal rule or Court Order

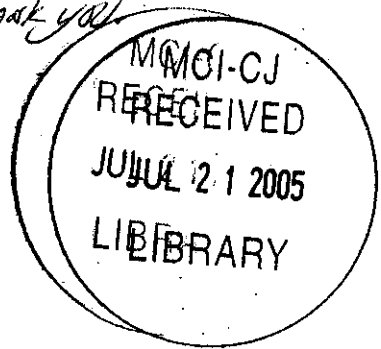
____ Other: _____

Date received: 7-21-05

Total number of pages: 7x

Date completed: _____

Please staple "two" of the
three copies. Thank you.



RECEIVED
7/28/05
T.G.

DEPARTMENT OF CORRECTION

INMATE REQUEST TO STAFF MEMBER

TO: Glen Gaspar, CPS III
(Name and Title of Officer)

DATE: 7/24/05

SUBJECT: State completely but briefly the problem which you desire assistance (give details)

Over a week and a half ago, I want you my motion for request of documents to be copied through the main library pertaining to Gaskins v. Mass Correctional Health Service, D.D.C. No. 05-cv-10858-GAO, and I never received the motion or copies. I have to file that by July 29, 2005.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

I want my motion and copies found right away.

NAME: TONY GASKINS

No.: 615245

Work Assignment:

Living Quarters: A2 #87/001

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

DATE: W, 7-27-05

- ① Copies rec'd from you on TH, 7-21-05, ret'd F, 7-22-05
- ② Copies rec'd from you on W, 7-20-05, ret'd F, 7-22-05
- ③ Copies rec'd from you on M, 7-18-05, ret'd W, 7-19-05
- ④ Copies rec'd from you on TH, 7-14-05, ret'd F, 7-15-05
- ⑤ Copies rec'd from you on W, 7-13-05, ret'd F, 7-15-05
- ⑥ Copies rec'd from you on F, 7-1-05, ret'd TH, 7-5-05

THESE ARE ALL THE JULY 05 REQUESTS.

Glen Gaspar

RECEIVED

7/28/05

T.G.

#187

DEPARTMENT OF CORRECTION

INMATE REQUEST TO STAFF MEMBER

Recd
7/25/05TO: Beverly Veglar, LIBRARIAN
(Name and Title of Officer)DATE: 7/24/05SUBJECT: State completely but briefly the problem which you desire assistance
(give details)

I sent to you for copies my motion for request of documents over a week and a half ago pertaining to BASKING v. UMass Correctional Health Service, J.D.C. No. 05-CV-10858-GAO, and I NEVER RECEIVED MY COPIES. IF you lost my motion, it will definitely adversely affect my case. I HAVE to file it by July 29, 2005.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

I want my motion and copies found or I am reporting what you did directly to the federal judge.

NAME: Tony BASKINGNo.: 1252145

Work Assignment: _____

Living Quarters: A2 #182/box

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

DATE: 7/25/05

This material was received in the library on July 20, 2005 and processed on July 22, 2005. It is awaiting pick up by CPO Gasper. No deliveries of material are picked up over the weekends which are not working days for accordance w/ policy 3-5 working days during normal operations of institution. Beverly Veglar, librarian

cc/file